



SCOPE OF FREEDOM OF INFORMATION ACT UPDATE

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ISSUE

You asked for a brief summary of the Freedom of Information Act's (FOIA) disclosure requirements.

SUMMARY

FOIA was first enacted in 1975. It was based on the Right to Know Act of 1957 that required state and local agencies to, with limited exceptions, disclose records to anyone who asks. FOIA identifies the information held by public agencies that must be made available for public inspection and copying. This public information must be disclosed unless federal or state law prohibits it. Some of these prohibitions are in the FOIA itself but most are scattered throughout the statutes. Although access is mandated, public agencies may charge a fee for access to public records. FOIA also notes several types of records for which disclosure is not mandated.

FOIA applies to all state and local governmental agencies, departments, institutions, bureaus, boards, and commissions. This includes all executive, administrative, and legislative offices, and the administrative functions of the judicial branch and the Division of Criminal Justice.

Death and marriage records are generally available to adult members of the public who request them and pay a fee (CGS § 7-51a). Interested parties should contact the registrar of vital statistics in the town where the death or marriage occurred or the Department of Public Health. Courts may order that certain family relation proceedings and records, including marriage and divorce proceedings and records, be kept confidential and not open to inspection except by court order (CGS § 46b-11). Real estate transactions, as recorded on municipal land records, are generally

available to the public. Recorded information typically includes the address and description of the property, current and previous owners, transaction dates, assessed property value, etc. However, certain transactions made by or for a public agency are exempt from disclosure. These exemptions are explained below.

Individuals cannot simply request that public agencies not disclose otherwise public records or prevent access to public proceedings. However, individuals can contest the public nature of a record or proceeding and prevent the disclosure of personnel, medical, or similar files if disclosure would constitute an invasion of privacy (CGS § 1-210). Additionally, certain government officials and employees may prevent the disclosure of their residential address by providing public agencies with their business address in instances where residential addresses are required (CGS § 1-217).

In 2008, the Office of Legislative Research issued a report titled Scope of Freedom of Information Act ([2008-R-0333](#)), which outlined what records must be disclosed pursuant to FOIA at that time. This report serves as an update, as FOIA has been modified many times since 2008.

DISCLOSURE OF PUBLIC RECORDS UNDER FOIA

Material to be Disclosed

All records and files of state and local public agencies must be disclosed unless a particular federal law or state statute makes them confidential (CGS § 1-210). This includes any recorded data or information relating to public business prepared, owned, used, received, or retained by a public agency, whether it is handwritten, tape-recorded, printed, photostated, photographed, computerized, or recorded by some other method (CGS § 1-200). The act prohibits agencies from computerizing their records in a way that impairs public access to disclosable information (CGS § 1-211).

Public information subject to disclosure generally includes letters, memoranda, advisory opinions, recommendations, and reports used within agencies or sent to other agencies. Personnel files, birth records, and confidential tax records must be disclosed to the person who is the subject of the information (CGS § 1-213). Also specifically subject to disclosure are tenement house and nursing home inspection records, arrest records—except those of juveniles—that have not been erased, the names of firms obtaining bid documents, and employment contracts (CGS §§ 1-210, 1-215).

FOIA also places certain mandates upon public agencies, including that agencies permit members of the public or media to record, broadcast, or photograph their public meetings and that the agency make certain public meeting records publicly available (CGS §§ 1-225, 1-226).

Finally, FOIA, with some exceptions, makes some military discharge documents confidential for 75 years from the date such documents are filed (CGS § 1-219).

Material Exempt from Forced Disclosure Under the Act

Under FOIA, public agencies do not have to disclose 27 categories of information (see CGS § 1-210(b)). These include:

1. preliminary drafts or notes when the public agency has determined that the public interest in withholding such documents clearly outweighs the public interest in disclosure;
2. personnel and medical files and similar files, if disclosure would constitute an invasion of personal privacy;
3. certain law enforcement records, including arrest records of juveniles;
4. records relating to pending claims and litigation;
5. trade secrets;
6. questions, scoring keys, and related materials used in licensing, employment, and academic exams;
7. real estate appraisals, estimates, and evaluations related to property acquisition or prospective public supply or construction contracts, until the transaction is complete or the project abandoned;
8. personal financial data acquired by a licensing agency;
9. records relating to collective bargaining strategies or negotiations;
10. records, tax returns, reports, and statements exempt under federal law or state statute, as well as privileged communications (e.g., attorney-client, doctor-patient);
11. with certain exceptions related to regional schools, names or addresses of public school or college students without the consent of a student who is at least 18 or the parents of a younger student;
12. information obtained illegally;

13. investigation records and names of employees reporting problems under the "whistle-blowing" statute;
14. adoption records and related information;
15. unprocessed or uncertified pages of primary, nominating, referendum, and town meeting petitions;
16. records of complaints pending before a municipal or district health authority or department;
17. educational records that are not subject to disclosure under the federal Family Educational Rights and Privacy Act;
18. records the commissioner of correction or commissioner of mental health and addiction services reasonably believes, if disclosed, would result in a safety risk at or risk of escape from a correctional institution or Whiting Forensic Division;
19. records when there are reasonable grounds to believe disclosure may result in a safety risk to any person or government-owned or leased facility;
20. records that would compromise the security or integrity of information technology systems;
21. the address of a participant in the secretary of state's address confidentiality program;
22. the email address of any person obtained by the Department of Transportation in connection with any notification system for significant highway or railway incidents;
23. the name or address of any minor enrolled in a government-sponsored parks and recreation program;
24. certain records related to public agencies' contract award processes;
25. contact information for individuals enrolled in government-sponsored or administered senior center programs;
26. certain confidential audit and investigation records of Medicaid and Medicare programs;

27. law enforcement records containing images of homicide victims, when disclosure of such records could reasonably be expected to constitute an unwarranted invasion of personal privacy of the victim or the victim's surviving family members.

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